

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION §
OF DERIOUS J. JOHNSON § No. 192, 2012
FOR A WRIT OF CERTIORARI §

Submitted: April 26, 2012
Decided: May 9, 2012

Before **BERGER, JACOBS**, and **RIDGELY** Justices.

ORDER

This 9th day of May 2012, upon consideration of the petition of Derious Johnson for a writ of certiorari, as well as the State's answer and motion to dismiss, it appears to the Court that:

(1) Johnson seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of certiorari requesting review of his 2003 sentencing as an habitual offender. Johnson contends that the State erroneously relied upon Johnson's 1998 felony conviction to prove his habitual offender status. We conclude that Johnson's petition manifestly fails to invoke the original jurisdiction of this Court and therefore must be DISMISSED.

(2) A writ of certiorari is an extraordinary remedy that is used to correct irregularities in the proceedings of a trial court.¹ Certiorari is only available to challenge a final order of a trial court where the right of appeal is denied, a grave

¹ *In re Butler*, 609 A.2d 1080, 1081 (Del. 1992).

question of public policy and interest is involved, and no other basis for review is available.² “Where these threshold requirements are not met, this Court has no jurisdiction to consider the petitioner's claims.”³

(3) In this case, Johnson has challenged his sentencing as an habitual offender on several occasions. Most recently, Johnson filed a motion for correction of sentence, which the Superior Court denied on March 7, 2012. Johnson did not file an appeal from that ruling. Because Johnson had available a remedy of a direct appeal, he may not now seek to invoke this Court’s original jurisdiction through the certiorari process. Because Johnson has failed to meet the threshold requirements for the issuance of a writ of certiorari, we conclude that his petition must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of certiorari is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

² *Id.*

³ *Id.*